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**REMARKS**

This paper is responsive to any paper(s) indicated above, and is responsive in any other manner indicated below.

**PENDING CLAIMS**

Claims 15-33 were pending, under consideration and subjected to examination in the Office Action. Appropriate claims have been amended, canceled and/or added (without prejudice or disclaimer) in order to adjust a clarity and/or focus of Applicant's claimed invention. That is, such changes are unrelated to any prior art or scope adjustment and are simply refocused claims in which Applicant is present interested. At entry of this paper, Claims 15-16 and 19-33 will be pending for further consideration and examination in the application.

**ALL REJECTIONS UNDER 35 USC '103 - TRAVERSED**

All still-standing 35 USC rejections of claims as being unpatentable over Sandifer (U.S. Patent No. 5,987,474) are respectfully traversed. All descriptions of Applicant's disclosed and claimed invention, and all descriptions and rebuttal arguments regarding the applied prior art, as previously submitted by Applicant in any form, are repeated and incorporated hereat by reference. Further, all Office Action statements regarding the prior art rejections are respectfully traversed. As additional arguments, Applicant respectfully submits the following.

Amended claim 19 is a combination of prior-pending claims 15, 17, 18 and 19, i.e., Applicant wants to see Examiner's treatment of such more narrowed/detailed claim. Given that amended claim 19 is a combination of prior-pending claims 15, 17,

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18 and 19, it is respectfully submitted that amended claim 19 should be granted entry in the present application.

**Regarding the standing Sandifer rejection(s), Applicant strongly traverses,** and respectfully submits that the **Office Action rejections are nothing more than unsupported rejections improperly relying heavily on conclusionary “well-known” and “inherency” assertions,** i.e., therefore, the Office Action comments do not adequately support the rejections.

More particularly, Applicant's disclosed and claimed arrangements are directed towards “A support system to allow a consumer to obtain an offer of a plurality of selectable termed commercial maintenance contracts...” Websters II New College Dictionary, copyright 1999, at page 245, defines “contract” as “**A legally enforceable agreement between two or more parties.**” **Sandifer is NOWHERE related to “contracts”,** i.e., the Undersigned reviewed a hardcopy and also accessed an electronic version of Sandifer, and **the word “contract” is nowhere within Sandifer.** Since Sandifer does not concern even a single contract, it follows that Sandifer is likewise not at all concerned with a “plurality of selectable ...contracts.” In short, the Examiner continues to ignore that Sandifer is nothing more than a system for obtaining maintenance and repair information, and/or maintaining a repair logbook. **It is not known how the Examiner can make the logical leap for Sandifer to suddenly concern “contracts” like Applicant's invention.**

Office Action comments point to the tables in cols. 78-79 as showing various “plans” or “options for plans”. However, it is respectfully pointed out that such col. 78-79 tables are only repair “**logbooks**”. Even if these logbooks are assumed (for

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argument purposes) to contain "plans", it is respectfully submitted that a "plan" is not the same thing as a "contract" involving a legal instrument between two or more parties.

As a next major deficiency, it is respectfully noted that Sandifer is directed mainly to aircraft (e.g., airplane) repair and maintenance. The Undersigned did a computer keyword search of an electronic version of Sandifer, and could not find mention of an "elevator".

Even stepping through just a few of the first features of Applicant's claims, major glaring deficiencies can be seen with respect to Sandifer. For example, Applicant's claims recite (in part), "a load prediction database storing load-values of previously known elevator sites, the load-values being stored in relation to values of a plurality of predetermined site-characteristics known to affect load-values." The Undersigned can find nothing within Sandifer which stores or predicts a load of people (or cargo) expected of an aircraft, let alone an elevator. Again, it is not known how a reference which does not concern storing or predicting a load, can suddenly make Applicant's "load prediction" features/limitations obvious? There is nothing in Sandifer that says its logbook entries can or should be used to predict future loads.

Since Sandifer does not contain any type of load prediction database, it is not known how Sandifer can suddenly make obvious Applicant's features/limitations of "a load predicting-unit to utilize inputted site-values and the load prediction database, to automatically predict a site-load-value of the consumer elevator site". Again, Sandifer does not appear to be concerned with predicting load, and instead, appears directed toward only maintaining a logbook for an aircraft.

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Even beyond the major deficiencies mentioned above with respect to Sandifer, Office Action comments in support of the art rejection(s) assert that numerous ones of Applicant's claimed features were well known in the art, i.e., without providing supportive art references for such assertion. With regard to such assertion of apparent judicial (i.e., Examiner) notice of common knowledge or well-known prior art, attention is directed to MPEP '2144.03 which states, "If the applicant traverses such an assertion the examiner should cite a reference in support of his or her position." Accordingly, in view of Applicant's traversal in this regard, and in accordance with the provisions of MPEP '2144.03, Applicant respectfully requests that a documentary proof be cited to explicitly show that such features were explicitly known in the art, or alternatively, Applicant respectfully requests withdrawal of all rejections based upon such unsupported judicial notice.

With regard to the above, such requirements have been clarified in the recent decision of In re Lee, 61 USPQ 2d 1430 (Fed. Cir. 2002) wherein the court in reversing an obviousness rejection indicated that deficiencies of the cited references cannot be remedied with conclusions about what is "basic knowledge" or "common knowledge".

Office Action comments in support of the art rejection(s) also assert that numerous ones of Applicant's claimed features were "inherent" in Sandifer. Traversal is again appropriate. More particularly, *In re Robertson*, 49 USPQ2d 1949 (Fed. Cir. 1999), states that to establish inherency, the extrinsic evidence "must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary

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skill. Moreover, the Court pointed out that inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient. The Office Action comments alleging "inherency" fail in that they provide only conclusionary statements with insufficient support. As one example, Office Action comments allege that "it would be inherent that different plans would have different "failure occurrence probability". Traversal is appropriate because: there is no evidence whatsoever in the record which makes this clear; and, different failure occurrence probabilities is NOT necessarily present, as it is possible that differing "plans" may have the same failure occurrence probability.

In order to properly support a §103 obviousness-type rejection, the reference not only must suggest the claimed features, but also must contain the motivation for modifying the art to arrive at an approximation of the claimed features. In short, it is respectfully submitted that it is respectfully submitted that the present rejection appears to be an improper hindsight rejection attempt, where the hindsight of Applicant's own disclosure and claims is the incentive driving the attempted modification of the reference. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and **not** based on Applicants' disclosure. In re Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). See MPEP 2143.

As a result of all of the foregoing, it is respectfully submitted that the applied art (taken alone and in the Office Action combinations) would not support a '103 obviousness-type rejection of Applicant's claims. Accordingly, reconsideration and

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withdrawal of such '103 rejection, and express written allowance of all of the '103 rejected claims, are respectfully requested.

### EXAMINER INVITED TO TELEPHONE

The Examiner is herein invited to telephone the undersigned attorneys at the local Washington, D.C. area telephone number of 703/312-6600 for discussing any Examiner's Amendments or other suggested actions for accelerating prosecution and moving the present application to allowance.

### RESERVATION OF RIGHTS

It is respectfully submitted that any and all claim amendments and/or cancellations submitted within this paper and throughout prosecution of the present application are without prejudice or disclaimer. That is, any above statements, or any present amendment or cancellation of claims (all made without prejudice or disclaimer), should not be taken as an indication or admission that any objection/rejection was valid, or as a disclaimer of any scope or subject matter. Applicant respectfully reserves all rights to file subsequent related application(s) (including reissue applications) directed to any/all previously claimed limitations/features which have been subsequently amended or cancelled, or to any/all limitations/features not yet claimed, i.e., Applicant continues (indefinitely) to maintain no intention or desire to dedicate or surrender any limitations/features of subject matter of the present application to the public.

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**CONCLUSION**


In view of the foregoing amendments and remarks, Applicant respectfully submits that the claims listed above as presently being under consideration in the application are now in condition for allowance.

To the extent necessary, Applicant petitions for an extension of time under 37 CFR '1.136. Authorization is herein given to charge any shortage in the fees, including extension of time fees and excess claim fees, to Deposit Account No. 01-2135 (Case No. 500.39831X00) and please credit any excess fees to such deposit account.

Based upon all of the foregoing, allowance of all presently-pending claims is respectfully requested.

Respectfully submitted,

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